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**A SUMMARY OF SELECTED BILLS  
TRULY AGREED TO AND FINALLY PASSED**

**By The  
89th General Assembly  
Second Regular Session**



**Prepared By  
Office of State Courts Administrator  
July 1998**

## TABLE OF CONTENTS

	<u>Page</u>
Senate Bills Listed by Bill Number .....	i
House Bills Listed by Bill Number .....	ii
Introduction .....	1
Bill Summaries .....	2

## SENATE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
537	DURABLE POWER OF ATTORNEY .....	2
583	ENGLISH AS COMMON LANGUAGE.....	2
614	JUDICIARY .....	2
634	CHEMICAL TEST/UNDER 21 .....	4
674	ADOPTION/PERMANENCY PLANNING .....	4
684	JUVENILE DETENTION .....	4
720	MISSOURI CHILDREN'S SERVICES COMMISSION.....	4
841	RETIREMENT BENEFITS .....	4
910	CHILD SUPPORT/CHILD CUSTODY .....	5
961	CHILD PROTECTION SYSTEM.....	6

## HOUSE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
931	EVIDENCE .....	6
971	JUVENILE CONVERSION .....	6
977	PROPERTY PROVISIONS .....	6
987	MARRIAGE LICENSE/MUNICIPAL JUDGES .....	7
1043	DISCLOSURE OF SOCIAL SECURITY NUMBER .....	7
1095	OPEN MEETINGS AND RECORDS.....	7
1103	DURABLE POWER OF ATTORNEY .....	7
1107	TRUSTEES' COMPENSATION .....	7
1147	METH/DRUGS/ DRUG COURTS.....	7
1226	FAMILY COURT ADMINISTRATORS .....	8
1229	PEBSCO.....	8
1265	FORFEITURE PROCEEDS .....	8
1357	DRUGS/KETAMINE.....	8
1405	COMMITMENT OF SEXUAL PREDATORS .....	9
1526	PAWNBROKERS .....	9
1528	COLLECTION OF SHERIFFS' FEES.....	9
1556	CHILD PROTECTION SYSTEM.....	9
1599	RETIREMENT BENEFITS .....	10
1779	RAPE/COUNTERFEITING MERCHANDISE .....	10
1822	PERMANENCY PLANNING FOR CHILDREN .....	10
1891	CONCEALED WEAPONS.....	10
1918	ADOPTION/DOMESTIC VIOLENCE.....	10

## INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Except for the bills marked "vetoed," all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 1998, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room  
State Capitol  
Jefferson City, Missouri 65101

House Post Office  
State Capitol  
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

## **SENATE BILLS**

### **SB 537 DURABLE POWER OF ATTORNEY**

Provides that the amendments to the durable power of attorney law enacted in 1997 are effective 8/28/97, except that, as to powers of attorney executed prior to 1/1/99, the laws in effect prior to 8/28/97 shall apply if such prior laws shall be more favorable to construing said powers of attorney to be durable or grant a power sought to be exercised by the attorney-in-fact. Also provides that a trustee shall be entitled to reasonable compensation for services. Chapters 404 and 456, RSMo

### **HCS SS SCS SB 583 & 645 ENGLISH AS COMMON LANGUAGE**

This bill makes English the common language of the state. Section 5 provides that all wills and estates shall have an official English translation to ensure the accurate execution of such documents. If no such translation is provided at the time of probate, the court with jurisdiction shall make such arrangements as necessary to create an English translation. The reasonable costs associated with document translation shall be reimbursed from the estate or trust or both, as provided in the trust agreement, testamentary document, or as allocated by the court.

### **CCS HS HCS SCS SB 614, 696, 906, 530, 912, & 914 JUDICIARY**

This legislation will:

- 1) make changes in the Office of Prosecution Services Fund;
- 2) provide for court clerks rather than sheriffs to collect fines in some counties;
- 3) provide for court clerks to collect certain sheriffs' charges;
- 4) make changes in the process for certain sheriffs' fees;
- 5) clarify sheriffs' mileage rates in criminal cases;
- 6) expand the authority to collect court costs in city or county building code cases in first-class counties;
- 7) modify the automatic disqualification provision in §105.464 for indirect financial interest;
- 8) restrict trial de novo;
- 9) give juvenile courts jurisdiction in cases where a juvenile is alleged to have possessed a tobacco product;
- 10) make a technical change in the appointing authority for local juvenile detention personnel;
- 11) make technical changes in the time frames for termination of parental rights cases;
- 12) provide for suits to abate property in violation of local codes;
- 13) allow municipal judges to perform weddings;

**CCS HS HCS SCS SB 614, 696, 906, 530, 912, & 914 JUDICIARY (Cont.)**

- 14) modify the compensation provisions for senior judges;
- 15) remove the restriction on appellate courts from reimbursing judges and staff for official travel to and from official stations;
- 16) give presiding judges broad transfer powers over commissioners;
- 17) clarify commissioners' benefit provisions including retirement;
- 18) make changes in the appointment of probate and deputy probate commissioners in the 16th, 21st and 22nd Circuits;
- 19) create a new state-funded probate/family court commissioner in the 23rd Circuit (Jefferson County);
- 20) change the time parameter for adding another associate circuit judge in the 16<sup>th</sup> Circuit (Jackson County);
- 21) provide for the St. Louis County traffic court to hear municipal cases;
- 22) provide for St. Charles County to stop reimbursing the state for one of the two current reimbursable family court commissioners;
- 23) make technical compliance changes in the authority of family court commissioners;
- 24) allow criminal cases to be heard in family court without a waiver of jury trial from the defendant;
- 25) provide for county and party-funded witness mileage to be paid at the state rate (3¢ below the IRS allowance) (excludes state-paid indigent criminal cases);
- 26) simplify the administration of the cap on court cost growth;
- 27) include chiropractors in the group of professions with whom communications are privileged;
- 28) simplify administration of prisoner litigation reform provisions;
- 29) provide for waiver of costs in civil suits brought by state-supported legal services;
- 30) allow for partition of boats with other personal property;
- 31) provide for definite time frames in some landlord tenant cases;
- 32) provide for transfers of public defenders; and
- 33) provide that future replacement probate commissioners in St. Louis City, St. Louis County, and Jackson County will be paid at the rate of an associate circuit judge, rather than the current tie to the salary of a circuit judge.

57.130, 138.430, 196.790, 211.031, 211.331, 426.220, 426.230, 441.500, 441.510, 441.530, 441.550, 441.570, 441.580, 441.590, 441.610, 441.620, 441.630, 441.640, 441.641, 451.100, 476.682, 477.087, 478.265, 478.266, 478.267, 487.090, 491.060, 528.620, 534.070, 534.350, 534.360, and 535.110, RSMo 1994 and 56.765, 57.280, 57.290, 82.1025, 105.464, 211.447, 441.520, 478.464, 479.500, 487.020, 487.030, 488.012, 488.015, 506.363, 506.369, 506.372, 506.375, 506.390, 514.040, 534.090, 534.380 and 535.030, RSMo 1997

### **HCS SCS SB 634 CHEMICAL TEST/UNDER 21**

This legislation will allow a chemical test of a driver under 21 when there is a reasonable belief that the driver consumed alcohol and has a BAC of 0.02% or more. Any type of traffic stop is included.

The definition of "intoxication-related traffic offense" is expanded to include manslaughter and assaults that involve the drunken operation of a motor vehicle. Prior and persistent DWI offenses are expanded as a result. This bill has an **emergency clause**. 577.023, RSMo 1994 and 577.020 and 577.041, RSMo Supp. 1997

### **HCS SB 674 ADOPTION/PERMANENCY PLANNING**

Changes Missouri adoption law in order to meet certain federal mandates. It also expands the rights of parents, grandparents, and foster parents. This bill also contains the same language relating to permanency planning that is found in HB 1822. 210.720, 211.183, 376.816 and 453.160, RSMo 1994 and 192.016, 211.171, 211.444, 211.447, 211.464, 452.402, 453.025, 453.030, 453.040, 453.060, 453.070, 453.075, 453.077, 453.080, 453.112 and 453.170, RSMo Supp 1997

### **SCS SB 684 JUVENILE DETENTION**

Allows a court to order a juvenile offender into the custody of the Division of Youth Services, if there is an appropriate facility and upon agreement of the Division. The Division must petition a court for a hearing prior to release at any time before the offender reaches the age of twenty-one.

The court may set forth the minimum period for a child to remain in the custody of the Division of Youth Services. No court order shall require this time to exceed the child's eighteenth birth date, except upon petition of the Division. The Division shall determine the appropriate program or placement for children in its custody. Provisions requiring the Department of Social Services to submit proposed treatment plans developed by evaluation teams, and implementation of permanency treatment plans as ordered by a court, have been deleted. 211.073 and 211.181, RSMo Supp. 1997

### **SB 720 MISSOURI CHILDREN'S SERVICES COMMISSION**

Provides that the circuit courts and the Office of State Courts Administrator, among others, must cooperate with the Children's Services Commission by providing information as requested. Chapter 210, RSMo

### **HCS SB 841 RETIREMENT BENEFITS**

This bill contains several provisions relating primarily to county retirement systems.

The bill modifies the definition of "employee" to apply only to employees "hired and fired" by the county and who are directly controlled by the county for the purposes of membership in the County Employees' Retirement System.

This act also allows state employees employed on 8/28/96 to receive creditable prior service as an elected county official if certain provisions are met.

This act allows certain retired members who served as ex-officio county recorders and such service did not count towards retirement calculations to be eligible for benefits based upon such service, so long as such service is not vested in another retirement plan. 50.1000, 50.1040, 50.1090, 50.1100 and 50.1140, RSMo 1994 and 50.1110, RSMo Supp. 1997



## **CCS HCS SS SB 910 CHILD SUPPORT/CHILD CUSTODY**

This legislation makes numerous changes in the statutes relating to child support and child custody. It should be read in its entirety; the summary below highlights certain provisions.

Section 452.400.3 allows a party who has been denied visitation to file a pro se "family access complaint" with the court on a form provided by a clerk. The clerk is to explain the form and assist the party with the filing. There is a \$25.00 "family access fee" to be paid at filing. Within 14 days after notice is served, the court may order mediation or some other alternative dispute resolution process. Intentional denial of visitation is a cause for a motion to modify. Violation of a family access order may result in a fine of up to \$500.00.

The bill contains provisions requiring the creation of a "parenting plan." The Supreme Court must issue guidelines for a parenting plan within 120 days of the effective date of the bill.

Section 452.377 prohibits parents from relocating the child's residence without first giving the other parent 60 days' written notice, and without a court order or the other parent's written consent.

Section 452.373 allows the court to order the parties to participate in an alternative dispute resolution program whenever a petition or motion to modify is filed pursuant to §452.150. The cost is to be paid by the parties. No provision is made if a party is unable to pay. The Supreme Court must issue a rule allowing all circuits to establish an alternative dispute resolution program.

Section 454.478 requires the custodial party to furnish a summary of expenses in some instances.

The legislation also imposes a \$10.00 surcharge on dissolution filings to be deposited in the "Domestic Relations Resolution Fund" and uses the money to fund some provisions of the legislation. The legislation requires OSCA to create a handbook regarding parenting time and related issues. The handbook is to be distributed to each court and then to parties and the general public.

The legislation also requires all judicial circuits to establish a program of educational sessions for parties to actions for dissolution of marriage or in postjudgment proceedings involving custody or support. Parties are to pay the expenses.

Relevant factors for the court to consider in determining child support orders include the amount of time a child spends with each parent and the reasonable expenses associated with custody arrangements. Child support shall continue if the child continues to attend and progresses toward completion of a school program, taking at least 12 hours of credit per semester, with some specified exemptions.

Joint physical custody is defined as an order awarding each parent significant, but not necessarily equal, periods of time. Intent of either parent to relocate is a relevant factor for the court in considering a custody award, as well as the parenting plans submitted by both parents.

Any judgment or decree of dissolution or declaration of paternity shall specify that both parents shall have access to the child's records. In awarding child support, the court shall consider Section 452.340 factors and applicable supreme court rules.

The court is to specify visitation rights. The court is to make findings if requested by a party when there is a history of domestic violence. The court shall not grant custody to the parent who has been found guilty of or pled guilty to an offense committed in another state, when the child is the victim, that would be a felony violation of Chapter 566, RSMo, or Section 568.020, RSMo, if committed in this state.

## **CCS HCS SS SB 910 CHILD SUPPORT/CHILD CUSTODY (Cont.)**

The court shall apply Section 452.340, RSMo, factors and applicable supreme court rules in modification of child support proceedings. Each party is allowed one disqualification of a guardian ad litem per proceeding within 10 days from appointment, or within 10 days of the effective date of the act if previously appointed. A party may disqualify more than one guardian ad litem in a proceeding for good cause shown.

Parties to a paternity or child support proceeding must file identifying information with the State Case Registry instead of the court. Listed address information shall be deemed valid if other diligent efforts to locate a party fail, including service by publication and certified mail to the last known address.

Retirement benefits of state employees shall be considered income for purposes of child support enforcement.

## **SB 961 CHILD PROTECTION SYSTEM**

Authorizes expansion of the child protection system established by the Division of Family Services from eight areas of the state to the entire state. 210.109, RSMo Supp. 1997

## **HOUSE BILLS**

### **HB 931 EVIDENCE**

Provides law enforcement officials with legal mechanisms to collect and later dispose of hazardous materials and substances used as evidence in criminal investigations. 542.301, RSMo 1994

### **SS SCS HS HCS HB 971 JUVENILE CONVERSION**

This legislation will: provide for the conversion to the state payroll of currently county-funded juvenile court staff, except those in circuits comprised exclusively of a county of the 1st class; require a continuing maintenance of effort by counties where personnel are shifted; set the state reimbursement rates to the other counties; and, provide for retirement transfer and related changes starting in FY 2000. The bill also contains provisions dealing with administrative law judges and health facilities. 211.156 and 287.815, RSMo 1994 and 211.393, 287.812 and 360.015, RSMo Supp. 1997

### **SCS HS HCS HB 977 & 1608 PROPERTY PROVISIONS**

This bill expands the statutory provisions for the rehabilitation or destruction of deteriorated and abandoned property and for a lead abatement program in St. Louis City, St. Louis County, and Kansas City; and revises provisions which allow civil actions against nuisance properties. The bill also makes changes in the property law and zoning laws in Kansas City and Jackson County. 89.120, 141.530, 141.550, 441.500, 441.510, 441.530, 441.550, 441.570, 441.580, 441.590, 441.610, 441.620, 441.630, 441.640, 441.641, 447.620, 701.300, 701.302, 701.304, 701.306, 701.308, 701.310, 701.312, 701.314, 701.316, 701.318, 701.320, 701.326, 701.328, 701.330, 701.332, 701.334, RSMo 1994, and 82.1025 and 441.520, RSMo Supp. 1997

### **SCS HB 987 MARRIAGE LICENSE/MUNICIPAL JUDGES**

This bill provides that the social security number contained on an application for a marriage license shall be exempt from examination and copying as a public record. The bill also provides that marriages may be solemnized without compensation by any judge, including a municipal judge. 451.100, RSMo 1994 and 451.040, RSMo Supp. 1997

### **SCS HB 1043 DISCLOSURE OF SOCIAL SECURITY NUMBER**

Prohibits a state entity from publicly disclosing a social security number unless the disclosure is permitted by federal or state law, is authorized by the holder of that social security number or is connected to a civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or agency.

### **CCS#2 SS SCS HS HCS HB 1095 – OPEN MEETINGS AND RECORDS**

This bill makes several changes relating to governmental meetings and records, criminal competency, and arrest records including: expands the definition of "public governmental body" to include an independent advisory committee formed to advise a public governmental body; expands the definition of "public meeting" to include the polling of members of a public governmental body by electronic means while conducting public business; requires certain votes taken during closed meetings to be by roll call vote; requires notices of public meetings to advise the public of the actual matters to be considered; requires closed meetings to be closed only to the extent necessary, allowing the public to remain at the location to attend a subsequent open meeting session; limits fees for copying public records; clarifies that an individual member or the public governmental body itself may be held liable for violations of the open records law; requires clerks of reporting criminal courts to furnish final dispositions to the central repository, including all releases and acquittals on the ground of mental disease or defect excluding responsibility; and, allows access to certain closed records of a person found not guilty due to mental disease or defect, by law enforcement agencies, child care agencies, and in-home service providers. 610.010, 610.015, 610.020, 610.022, 610.023, 610.026, 610.027, 610.029, 610.030, 610.105, and 610.125, RSMo 1994 and 43.503, 610.021, 610.100, and 610.200, RSMo Supp 1997

### **HB 1103 DURABLE POWER OF ATTORNEY**

Provides that the amendments to the durable power of attorney law enacted in 1997 are effective 8/28/97, except that, as to powers of attorney executed prior to 1/1/99, the laws in effect prior to 8/28/97 shall apply if such prior laws shall be more favorable to construing said powers of attorney to be durable or grant a power sought to be exercised by the attorney-in-fact.

### **HB 1107 TRUSTEES' COMPENSATION**

Provides that a trustee shall be entitled to reasonable compensation for services. Chapter 456, RSMo

### **SS SCS HS HCS HB 1147,1435,1050,1186,1108 METH/DRUGS/ DRUG COURTS**

The proposed legislation would: increase the penalties for the possession, manufacture, and distribution of methamphetamine, and for the possession of its chemical components; lower the amount of a drug required for prosecution for certain levels of crime; create new drug-related crimes; alter the crime of

## **SS SCS HS HCS HB 1147,1435,1050,1186,1108 METH/DRUGS/ DRUG COURTS (Cont.)**

endangering the welfare of a child in the second degree to include chapter 195 violations; provide new Department of Health responsibilities relating to controlled substances; provide that conviction of any felony violation of chapter 195 in the course of business will result in the suspension of the individual's liquor license; and, amend the law about multijurisdictional enforcement groups (MEGs) to include counties bordering another state. The legislation also has provisions for stealing offenses relating to drugs.

The legislation would also create an "educational assessment and community treatment program" to be certified by the Department of Mental Health to provide education and rehabilitation services to certain felony drug offenders. A "Correctional Substance Abuse Earnings Fund" is created to handle assessment fees and a supplemental fee of \$60.00.

The legislation also creates "Operation Payback" to reimburse crime tip organizations.

The proposed legislation also would provide that drug courts may be established by any circuit court. The court en banc may appoint a person or persons to act as drug court commissioners. The compensation of the commissioner is to be the same as that of an associate circuit judge. Funding sources other than the state shall reimburse the state for the salary and benefits of the commissioner. 195.211, 195.222, 195.223, 195.233, 195.420, 217.362, 311.720, 544.376, 568.045, and 569.085, RSMo 1994 and 195.010, 195.040, 195.060, 195.100, 195.197, 195.400, 195.410, and 570.030, RSMo Supp 1997

## **HB 1226 FAMILY COURT ADMINISTRATORS**

Expands the authority in first and second class counties to appoint and fix the compensation and maintenance of the superintendent and assistants operating a detention facility to the family court administrator, when local rule permits. 211.331, RSMo 1994

## **SCS HB 1229 PEBS CO**

Provides that an amount not to exceed \$75 per month be deposited for each qualified participant in the state deferred compensation program, as long as funds to be credited to each qualified participant's account do not exceed an amount appropriated by the General Assembly. (Currently, the amount is \$25.) The qualified participant must contribute a minimum equal to the amount of state money appropriated to receive this benefit. 105.927, RSMo 1994

Please Note: At present, there has been no appropriation beyond the \$25.00, and any increase would not actually occur until July, 1999.

## **HCS HB 1265 FORFEITURE PROCEEDS**

Will place forfeiture proceeds in the "School Building Revolving Fund." As a result, courts will be required to specifically identify the bond forfeitures being remitted to the county treasurers separately from the fines being remitted. 166.131, RSMo 1994 and 166.300, RSMo Supp. 1997

## **HB 1357 DRUGS/KETAMINE**

Adds ketamine to the list of Schedule IV controlled substances. 195.017, RSMo Supp. 1997 (This provision is also in HB 1147.)

## **SS SCS HS HCS HB 1405, 1109 & 1335 COMMITMENT OF SEXUAL PREDATORS**

This bill amends the Missouri Sexual Predator Law. This bill commits individuals deemed to be "sexually violent predators" to the custody of the Department of Mental Health for control, care, and treatment until the person's mental abnormality or personality disorder has been corrected to the point that the person is safe to live among the populace.

The bill mandates that several agencies conclude that the person meets the definition of a sexually violent predator. Upon such a finding, the Attorney General may petition a court to make a probable cause finding, at a full hearing, as to whether the person is a sexually violent predator. If the probable cause determination is made, the person is held in a secure facility until the person receives a trial, to decide if the person is a sexually violent predator. If at the conclusion of the trial the accused person is deemed a sexually violent predator, the person is committed to the custody of the Department of Mental Health, in a facility secured by the Department of Corrections, until the person is no longer deemed a sexually violent predator. The determination as to the status of the person is subject to annual review by the court. The Department of Mental Health is required to give written notice to the known address of the victim or the victim's family when a sexually violent predator is released.

The bill makes several changes to the registration requirements of certain offenders. It makes providing false information in the registration statement or failure to timely verify registration information a class A misdemeanor. Any subsequent violation is a class D felony. Under current law, only the failure to register is a class A felony. 566.617, 589.400, 589.407, 589.410, 589.414, 589.417 and 589.425, RSMo 1997

The bill has an effective date of January 1, 1999.

## **SCS HCS HB 1526 PAWNBROKERS**

This bill makes numerous changes to the statutes relating to pawnbrokers including establishing procedures for restoring stolen property to the rightful owner. A person may recover stolen property held by a pawnbroker by filing a petition in a circuit or small claims court, even if the amount in question is greater than \$3,000. The pawnbroker may simultaneously bring an action against the person who pledged or sold the stolen property. If the property is found to be stolen, the court will restore it to the original owner who may recover legal costs from the pawnbroker who may, in turn, recover all costs associated with the action from the person who brought the property to the pawnbroker. The bill establishes a similar procedure for reimbursing customers who unknowingly purchase stolen merchandise from a pawnbroker. 367.044, 367.045, 367.047, 367.048, and 367.050, RSMo 1994

## **SCS HB 1528 COLLECTION OF SHERIFFS' FEES**

Returns the responsibility for collecting sheriffs' fees to the circuit clerk. 301.380, RSMo 1994 and 57.280 and 57.290, RSMo Supp. 1997

## **SCS HB 1556 CHILD PROTECTION SYSTEM**

Authorizes expansion of the child protection system established by the Division of Family Services from eight areas of the state to the entire state. The bill also extends the grant of immunity from civil and criminal liability for reports made to or in cooperation with a court or child protective service agency. 210.115 and 210.135, RSMo 1994 and 210.109, RSMo Supp. 1997

## **HCS HB 1599 RETIREMENT BENEFITS**

This bill contains the same county employee provisions as are in SB 841.

## **SCS HB 1779 RAPE/COUNTERFEITING MERCHANDISE**

This bill provides that forcible compulsion in a criminal prosecution of rape or sodomy includes the use of a substance that renders the victim incapable of making an informed consent to sexual intercourse:

The bill also prohibits the counterfeiting of merchandise. The crime of counterfeiting is either a class A misdemeanor to a class C felony depending on the number of items counterfeited or prior counterfeit offenses. The bill provides for seizure and disposition of the counterfeit property. 566.030 and 566.060, RSMo 1994

## **HB 1822 PERMANENCY PLANNING FOR CHILDREN**

The proposed legislation will make significant changes in the statutes relating to permanency planning for children in alternative care.

The timeframe for a dispositional hearing is shortened; courts may determine that proceedings to terminate parental rights (tpr) may be instituted by either the juvenile officer or the Division of Family Services (DFS); the number of persons who must be notified of and given an opportunity to be heard in these cases is expanded; and DFS may file a motion to modify a permanency plan. Also, DFS may now file petitions for tpr along with the juvenile officers, or, in adoptive cases, the prospective adoptive parent. Currently, DFS requests that the juvenile officer petition the court for tpr. This bill becomes effective on 7/1/98 or when it is signed, whichever occurs later. 210.720 and 211.183, RSMo 1994 and 211.171, 211.447 and 453.010, RSMo Supp. 1997

## **SS HCS HB 1891 CONCEALED WEAPONS**

This legislation will: make exceptions to certain unlawful weapons offenses in self defense situations; create new weapons offenses; include dangerous juvenile offenses in the reasons why a person cannot own a pistol as an adult; permit sheriffs access to juvenile records for purposes of determining eligibility to own concealable weapons; provide for sheriffs to issue non-discretionary permits to carry concealed weapons; and provide for appeals of denial of concealed weapon permits to small claims court. The bill has a referendum clause set for April, 1999. 571.070 and 571.090, RSMo 1994 and 571.030, RSMo Supp. 1997

## **CCS SCS HB 1918 ADOPTION/DOMESTIC VIOLENCE**

This legislation revises the adoption laws; prohibits the denial of health insurance for victims of domestic violence; requires law enforcement to report homicides where domestic violence was involved; creates the crime of "domestic assault offense"; and, prohibits a SIS in certain cases as well as imposes minimum prison terms for certain offenders. Some provisions become effective 1/1/99. 105.271, 565.070, and 566.023, RSMo 1994 and 453.010, 453.015, 453.030, 453.040, 453.070, 453.075, 453.075, 453.077, 453.080, and 453.170, RSMo Supp. 1997